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THE RELATION OF LEGAL AID TO THE MUNICIPALITY.*

The formation and development of a virile legal aid organization connected with our great municipalities is a question of vital concern to every thoughtful citizen, and one especially to be considered by our profession. To the great honor of the bar, few of its members refuse or even hesitate to perform legal work for the poor and unfortunate. In the smaller towns many of our best and influential lawyers, like their brethren of the medical profession, give much of their time as well as material assistance toward obtaining justice for those who cannot afford legal help in time of distress.

In our larger communities, however, it is practically impossible thus to handle these legal problems. The poor and ignorant, many of whom are foreigners unacquainted with our language and customs, live in districts far removed from the life and activities of the bar; the roads to the courts of justice and the paths leading to those who practice therein today are unknown and untravelled by over eight million of our people living in our large and populous centers of habitation, many of whom at some period in their lives will have need of legal assistance.

Our most thoughtful and competent authorities agree that injustice to the poor at present is responsible for the creation of more radical enemies to our Government than any other cause. The Mayor of one of our largest cities, a man of great experience, recently stated that trifling misunderstandings, ignorance of municipal regulations, and impositions upon the poor by the profiteer, is responsible for a large percentage of the radicalism in the country.

In addition to the arguments heretofore existing for organized legal aid work, there is at present the most imperative demand for its increasing development and efficiency. At the close of the greatest conflict of the ages, when the reorganization and rehabilitation of our great social and civic organiza-

*A paper read by Ernest L. Tustin, Director of the Department of Public Welfare of Philadelphia, before the American Bar Association at St. Louis, Aug. 27, 1920.

tions are being carefully considered throughout the country, the legal profession especially should give attention to obtaining more exact justice for the poor, the preyed upon and the unfortunate. New conditions are calling eloquently for the safeguarding of the rights of the helpless, the ignorant, and the foreign-speaking inhabitant. "It is our duty to interpret America to all potential Americans in terms of protection as well as opportunity."

In the creation and expansion of new industries caused by the war, notable changes have been wrought; for example, a remarkable increase in the number of women employees has occurred throughout the country. Women have been taken into many different industries, and by reason of their lack of knowledge in their new pursuits, and because in many cases of the heartless conduct of the employer, women have been imposed upon shamelessly and are peculiarly in need of assistance. In fact during the last six months of 1918 the number of women seeking legal aid in New York City exceeded the number of men by over seven hundred.

The return of our soldiers, sailors and marines has furnished a new and potential reason for well-equipped legal aid associations. Many of these boys have come back in a state of serious physical disability, without knowledge or means to secure the small assistance offered by the Government. Not cognizant of the exacting and troublesome requirements necessary to obtain relief, they easily become the victims of wrong and imposition.

To meet these conditions there has been organized in Philadelphia a committee representing not only ex-service and welfare organizations, but also the Chamber of Commerce, the Rotary Club, and similar agencies, who will co-ordinate the work of all organizations and bring them into co-operation with the work of the new Municipal legal aid bureau in investigating and prosecuting the cases of all ex-service men of Philadelphia County.

The abrupt cessation of building operations with the opening of the war, and the abnormal tendency to abandon the country for the city, has given rise to one of the most complex

problems of this generation. Competent authorities estimate a shortage of one million houses for the year 1920. The overcrowding of our larger cities, with the lack of housing facilities, has become an actual menace in many of our municipalities. The policy of placing several families where one ought to be, and the contraction of quarters for the poor raises many complex questions not only of sanitation and cleanliness, but also of letting and subletting, and of the rights and duties of landlord and tenant. These problems are especially unsettling the civic life of the unfortunate and the uninformed foreigner, and are vexing the police, the magistrate and the social worker, all of whom are beginning to look toward the legal aid organizations for relief.

The changing class of immigration coming from European countries will demand more than ever the services of Legal Aid Associations. In the years gone by, the immigration from the British Isles, Germany, France and Western Europe has been of the character that could readily be assimilated and of an intelligence difficult to impose upon. Immigration at present, however, is coming largely from the Eastern European countries, whose peoples do not readily acquire our language or understand our customs. In many of our industrial cities from 13 to 16 per cent of the workers require interpreters to express their wants.

All these urgent considerations and cogent reasons make the development of a legal aid organization, expressed in the terms of the Legal Aid Society of Chicago, more necessary than ever in our history, because it has an outstanding public work to perform, to-wit:

Its objects are to assist in securing legal protection against injunction for men, women and children who are unable to protect themselves; take cognizance of the working laws and methods; to propose new and better laws, and to make effort towards securing their enactment and enforcement.

The principles of a legal aid bureau thus admirably expressed having already received the stamp of approval of the American Bar Association, we desire to present a few reasons for their adoption and development into a Department or Bureau of the Government within our larger municipalities.

Reginald Heber Smith, in that most excellent and exhaustive bulletin issued by the Carnegie Foundation entitled: "Justice and the Poor" gives five distinct types of legal aid organizations, but only two need consideration:—private societies and public bureaus.

As in many other social and civic developments, the private society has been the pioneer in this work. Men of large vision, doing practical work among the poor, have seen the need of granting equal justice to all people without distinction. On the civil side they have observed that imposition and injustice are responsible for much of the discontent and extreme radicalism that exists in our centers of population. On the criminal side, distinguished criminologists state that at least ten per cent of all prisoners in American jails are there not because they are guilty, but because they have so pleaded in order to secure the minimum sentence, either through poverty preventing the employment of an attorney, or through personal fear or ignorance.

A careful consideration of these conditions led to the formation of volunteer organizations which have reached their greatest development in some of our larger cities, where the work they have accomplished and the results they have obtained have been phenomenal.

This work, so admirably done by volunteer organizations, however, has reached a stage in its development where to accomplish better and more satisfactory results it is necessary to carry it out through some department of the Government. This function should be exercised either under the supervision of the courts or as a bureau of the municipality.

Despite excellent arguments advanced to the contrary, we believe that legal aid should be a municipal function rather than connected with the administration of justice. The tendency to impose extra judicial duties upon our judges has frequently resulted not only in a distinct lowering of the judicial dignity, but also in many cases has interfered with the ability of our judges to render prompt, correct and impartial decisions upon pending legal questions. The judiciary should be kept free from anything except consideration of legal matters regularly brought before them, and any executive or legislative

functions should be carefully excluded from their judicial attention and decision.

The duty of the municipality, on the other hand, to conduct a proper legal aid department is just as much a civic duty as cleaning streets or providing water. A bureau to investigate and defend impositions upon the poor, the ignorant, and the foreigner, and to provide a proper and rational defense for men, women and little children without means, is just as much an obligation as to fill the office of District Attorney for the prosecution of crimes, or to provide a City Solicitor to enforce health mandates and building restrictions.

The work of a legal aid bureau, moreover, can better be accomplished as a municipal function rather than through an agency under private control or through judicial direction. There are many convincing reasons:

The municipal bureau is superior to the private organization in the psychological results produced. The poor and the ignorant applying to a private association and receiving assistance, have a feeling of gratitude to the private agency which obtains for them relief or redress. The very fact, however, that they have been compelled to go to an organization to obtain aid against injustice and oppression is often an additional reason to the undeveloped mind why the municipality and the justice-dispensing authorities are a great menacing force.

But a municipal bureau located in the city hall or the very center of the justice-dispensing agencies brings them to the very portals of the force which they dread. They go very unwillingly to the municipal court building or the "Hall," where is represented all that is hostile, unknown and untried, and to their surprise they find a department that patiently hears the case and defends the cause. At first they are moved with wonder that what they feared as a menace and as a forum where justice could only be purchased by the rich, proves a place of sympathy and help. Their minds gradually receive the astonishing impression that the Government is not wholly represented by the police, the jail, and a hostile judiciary, but that it possesses a co-operating agency and that they themselves are in some way a part of the very Government itself.

In this way the Municipal legal aid bureau is becoming one

of the greatest organized influences ever presented to our people for the Americanization of the ignorant and the foreigner. It is the connecting link between them and the Government which they have been taught to fear and avoid. The psychology of the whole situation is best displayed in the story of an Italian immigrant somewhat similar to the one related by Mr. Smith:

Into a municipal legal aid department of a city not far removed comes a stalwart policeman, introducing a diminutive Italian crying and sobbing in two languages at the same time. A young lawyer, at whose table he is unceremoniously deposited, sends for an Italian interpreter and gets from him the story. He finds the prisoner, Dominick Rividi, has been in America for upwards of a year; is married, possesses a wife and four little girls; has good steady employment at \$23 a week, and, until the happening of the great misfortune which has just come into his life he was a happy, prosperous product of sunny Italy. A little over two weeks previous an enterprising salesman had presented him with a book filled with many beautiful instruments for producing music. After some negotiations Dominick buys what he believes to be a graphophone, with six records, for \$31, paying \$5 on account and agreeing to pay \$1 a week for twenty-six weeks. When questioned as to why he bought the instrument, he shrugged his shoulders in the Italian style and said: "My wife she loves the muse, and the girls they love the dance." In fact he was buying a Christmas present that might be enjoyed by his entire family. The salesman showed him where to sign the agreement for the purchase of the instrument and the order for the payment of the installments, and Dominick goes back to work happy in the thoughts of Christmas joys. The week following he joins the line of workmen to receive his pay, and much to his surprise and consternation he receives an envelope containing a dollar. He remonstrates, but is waived away by the pay-master, who unceremoniously tells him that there are hundreds more to pay and that the envelope contains all that is coming to him. He is shoved out of line, and after wandering around goes home to his wife, who comforts him with the assurance that some mistake has been made and that next week it will be all right.

The following week he goes for his pay, much needed by reason of the severe weather and high cost of provisions in this new and strange country, but when he opens his envelope he again finds only a dollar. This time he refuses to leave the window; he grasps the bars and insists to the paymaster that there is \$42 coming to him. The paymaster, anxious to get through and conscious of the large number of men yet to be paid, tells him to see the pay clerk on the following day; that he must get out of line and allow the other men a chance. Dominick, remembering his wife and children and their need of food, becomes boisterous and loud in his demands. The paymaster calls a policeman and tells him to commit the persistent claimant until the next day, when he will appear against him on the charge of disorderly conduct. 'On the way to the patrol box Dominick, with thoughts of those at home, bursts into tears and attempts to relate his story to the policeman, who, with sympathy for the little Italian, says; "You don't need the police station, you want the Legal Aid."

At once the wires grow hot, and the story is soon straightened out; the enterprising salesman had written a contract for a Victrola costing \$100 and six records at \$15 and had taken an order upon Dominick's employers to collect \$22 a week instead of a graphophone for \$31. The music firm is at once communicated with, the contract is cancelled and the head of the bureau says:

"At 4 o'clock we sent Dominick home the happiest Italian in America. He had \$42 which represented two weeks' pay or \$46 less \$2 he had received and the \$2 deducted to carry out his graphophone contract. He said: 'America, she is the greatest country in the world. She takes the poor man and gives him wages for the support of himself and his children. * * * She is the greatest city in America, because the poor man can come direct to the city hall, tell his troubles, and get relief.' 'Mister,' said he, 'If you ever need anybody to fight for you, send for Dominick Rividi, and he and his friends come and fight for your city.'"

If that policeman had locked up the Italian and his wife or one of his children should have been taken sick and died by

reason of hunger, cold and exposure, is there not reason to believe that, suffering under the injustice of what he did not understand, he might have become one of those implacable of all the enemies to the Government, an Italian Red. Instead, we have a man who says, "Mister, if your city needs anyone to fight for it, send for Dominick Rividi and his friends."

Under the Municipal Legal Aid Bureau a much better organization can be developed and a much wider range of publicity can be given to the work. Private agencies lack funds for the promotion of their various departments. Especially, at present such exhaustive demands are being made upon the charitable purse that it is impossible not only to collect enough money in many cases to pay for suitable legal supervision, but also for the clerical force actually necessary properly to conduct the work.

Moreover, in the private organizations those desiring aid in most cases only find their way to the office of the Legal Aid Bureau through the social worker or through those who themselves have been benefited in the past.

The Municipal department on the other hand, however, is recognized as a regular branch of the City Government. The police are instructed to send cases coming to their knowledge which need legal advice and assistance; the magistrate finds somewhere to refer perplexing questions constantly coming before him, while the social worker possesses a bureau fully equipped to assist her in the complex legal problems which are constantly seeking solution.

The Municipal Bureau, also has great advantage in the opportunity of co-operating with the press. The reporter is ever alert for a good story, and nowhere exists such a promising field as in the Legal Aid Bureau. The newspapers of our cities have proven invaluable aids in assisting our officials in enforcing rights and adjusting wrongs.

Many an unscrupulous employer, profiteering landlord and unconscionable dealer has readily yielded justice, rather than have an action brought and the light of publicity turned upon the questionable transaction or upon the oppressions of the poor and undefended.

The Municipal Bureau also possesses great advantage in the co-operation and co-ordination of its work with the other City Departments. This is especially true with respect to the District Attorney's Office. The poor and the ignorant foreigner, when accused of a misdemeanor or a breach of City ordinance suddenly finds himself confronted by a powerful arm of the Government. He is without means to employ an attorney, he is bewildered and dazed by unaccustomed surroundings and proceedings which he does not understand; these conditions cause him in many cases to plead guilty in order to obtain a minimum sentence, and in many other cases brings conviction of a more serious offense than that of which he is guilty.

In this way the great river of criminality is swollen by the stream of first offenders. It has been conservatively estimated that a majority of our first offenders become permanent criminals, either through association with the older prisoners in our prisons, or because the door of employment is so often shut on account of the prison taint.

The ideal method to meet these conditions and to procure justice for the criminally accused poor, is through the office of the Public Defender. Owing, however, to high taxation and the present need for rigidly enforcing economy on the part of most of our cities, it will be many years before this office will be generally established.

In the absence of such an official, his duties should be performed by the Municipal Legal Aid Bureau. To it the District Attorney can refer such cases as have a proper and reasonable defence, and where investigation seems needful the bureau can make proper inquiries and present a formal report to the District Attorney's office. In this way many bills of indictment resulting from trifling misdemeanors and petty infringements of the law may be submitted.

One of the most serious and perplexing problems confronting the prosecuting authorities is where a man is charged with some petty misdemeanor or infringement of Municipal Ordinances, and for lack of nominal bail is thrown into jail pending trial. In these cases the Municipal Legal Aid Bureau is of most efficient help. The officer making the arrest and the mag-

istrate hearing the case can refer this matter to this branch of the Municipal Government, and if the investigation shows there be reasonable doubt as to the prisoner's guilt, that his moral character is good, and that he has employment for the support of himself and his family, arrangements can be made whereby bail may be entered and the accused can continue to support his family up to the time of his trial, when he can be properly represented and even if convicted, where his character is good and the misdemeanor slight, he can be paroled and continue the maintenance of his home.

As a branch of the City Government the Judiciary are also enabled to take advantage of the good offices of the Legal Aid Bureau and can request its defense or investigation of such prisoners as to them seem worthy, yet through poverty have no legal representative.

With all these many advantages of a Municipal Legal Aid Bureau, there has been much hesitation in transferring the work of the private societies to the Municipality. The great objection has been based upon the fear that the Municipal Department would become tainted with partisanship and used as a weapon in the hands of unscrupulous politicians.

We believe here is where our Local Bar Associations in the great cities of our country could perform a most worthy and notable service. As one of their highest aims has always been to preserve the Judiciary, pure and unsullied, so now they should assume the additional burden of cultivating the public conscience, in order that a universal demand would place the Municipal Aid Bureau upon the same par as the Judiciary, and would compel its conduct in a nonpartisan, upright and just manner. Law Associations throughout the country should appoint a standing committee on Legal Aid, and foolhardy indeed would be the Legal Aid chief who would not welcome the help and co-operation of such a committee.

The Legislature of Pennsylvania last winter in granting the new charter to the City of Philadelphia gave an increased scope of governmental functions beyond anything that our city has ever enjoyed.

The new Department of Welfare was created. It has charge

of all the correctional, recreational and charitable institutions of the city, together with such functions and duties as Councils may from time to time provide. Councils have taken advantage of this power and made liberal provision for the establishment of a Municipal Legal Aid Bureau.

The city is also most fortunate in having recently elected as its Chief Executive, J. Hampton Moore, a man of broad vision, practical ideas and thoroughly in sympathy with Civic Welfare work.

In the formation of the New Legal Aid Bureau, the Mayor and Councils generously provided for a Chief at a salary of \$4,000; the City Solicitor was authorized to assign two attorneys to the bureau; clerks, inspectors and interpreters employed and suitable quarters allotted in the City Hall.

Arrangements are now under way whereby the graduates of our Law Schools in taking a post-graduate course, will be permitted to serve a year with the New Bureau. They will take a regular civil service examination and in the same way as medical graduates become internes in the various hospitals. They will become legal internes in the Bureau of Municipal Legal Aid, and although receiving no compensation they will be recognized as regular city employees.

That there may be entire co-operation with the work of other agencies, an advisory committee consisting of two representatives from the Law Association of Philadelphia, one from the Municipal Court, one from the District Attorney's Office, one from the Private Legal Aid Bureau and one from the American Legion, meet with the Bureau and advise in recommending methods of procedure, conduct and development of the work.

One of the cardinal principles enunciated by the new bureau is that the Municipal Legal Aid Bureau is not a charity, but a function of the government inaugurated for the benefit of the poor and the oppressed. Through this Bureau all who are in too great a condition of poverty to employ legal talent may receive the right of representation equal to that of their more fortunate fellow citizens.

The Bureau is also operated upon the distinct lines of con-

ciliation. Actions-at-law are deprecated and settlements are obtained wherever possible. The interpreters also do investigating work and the inspectors carefully look up different cases committed to their care and in addition to their regular duties are frequently called upon to do social service work in other branches of the Municipality.

Small cards with the address of the Bureau in City Hall are given to the Magistrates. Through the courtesy and co-operation of the head of the Department of Public Safety the police are carefully instructed in the work of the Department, and under what circumstances to refer cases, while the social worker is invited to consult over cases involving the ignorant and imposed upon.

The stories of man's inhumanity to man, the imposition upon the weak and helpless and the profiteering directed toward the very poor, are startling and at times almost unbelievable. The relief that the new bureau is bringing to hundreds of applicants is already establishing a bond of sympathy between the extreme poor, the foreigner and the City Government.

We believe that there is no department of our great municipalities which will so work for the Americanization of the foreigner, the alleviation and quieting of the unrest among the poor and the ignorant, as a well established municipal legal aid bureau. It is worth all the Bureau costs to have a place where the poor, the misunderstood and the ignorant can get their troubles out of their system; a forum where they can consult someone in authority who will hear their woes, which to them are very great and very real, and where they may obtain sympathy, help and relief.